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March 25, 2002

MINUTES

Room 137, State Capitol
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division.

Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.

COMMITTEE MEMBERS PRESENT

Sen. Tom Beck, Chairman
Sen. B.F. "Chris" Christiaens
Sen. Vicki Cocchiarella
Sen. Mack Cole
Sen. Steve Doherty

Rep. George Golie
Rep. Doug Mood
Rep. Mark Noennig

COMMITTEE MEMBERS ABSENT

Sen. Fred Thoms
Rep. Dan McGee
Rep. Kim Gillan
Rep. Brad Newman

STAFF PRESENT

Lois Menzies, Executive Director, Legislative Services Division
Miko Owa, Secretary, Legislative Services Division
Greg Petesch, Legal Director/Code Commissioner, Legislative Services Division
Dave Bohyer, Director, Legislative Services Division

Todd Everts, Director, Legislative Environmental Policy Office
Stephen Maly, Research Analyst, Legislative Services Division
Karen Berger, Financial Services Manager, Legislative Services Division
Susan Fox, Research Analyst, Legislative Services Division

VISITORS

Agenda (ATTACHMENT #1)
Visitors' List (ATTACHMENT #2)

COMMITTEE ACTION

- Adopted minutes of the January 25, 2002, meeting
- Concurred with the proposed transfer of property owned by the Department of Corrections to the City of Deer Lodge/Powell County
- Agreed to recommend to the Joint Rules Committee the adoption of a rule addressing multiple versions of code sections
- Approved having the Council review proposed legislation for agencies not currently assigned to an interim committee
- Requested a bill draft designating the Council as reviewer of proposed legislation for agencies not currently assigned to an interim committee
- Approved drafting a letter to legislators encouraging participation in America's Legislators Back to School Week

CALL TO ORDER, ROLL CALL, MINUTES

The meeting was called to order at 1:03 p.m. by Sen. Beck. Roll call was noted with all members present except for Rep. McGee, Rep. Gillan, Rep. Newman, and Sen. Thomas, who were excused. Sen. Beck asked for any changes to the January 25, 2002 minutes. Since there were none, the minutes were approved.

DEPARTMENT OF CORRECTIONS PROPERTY TRANSFER

Jeanne Holmgren, Special Uses Management Bureau Chief, Department of Natural Resources Conservation, presented to the Council a proposal for transferring land from the Department of Corrections (DOC) to the City of Deer Lodge/Powell County (EXHIBIT #1). She said that one of the proposed land uses was for airport expansion.

Matt Robertson, Attorney, DOC, said that the DOC is fully supportive of the transfer and would like the recommendation to go to the Land Board as soon as possible.

Ron Kelley, Chairman, City/County Airport Board, said that it was in the community's best interest for the Council to approve the transfer.

Jim MaGoen, Mayor, City of Deer Lodge, said that the city is in favor of the proposal because it will bring increased economic development.

Tom Hatch, Commissioner, Powell County, said that there is great cooperation between the

agencies and there is total accord on this property transfer.

Bill Dabney, Director, Montana State Prison Ranch, said that he is very supportive of the idea.

Sen. Beck asked about the water source. Mr. Dabney said that it was from the Tin Cup Creek. Sen. Beck asked about the ground exchange. Mr. Dabney said that they did spend a lot of time trying to trade land; however, there were significant barriers that made the trade impossible.

Bud Clinch, Director, Department of Natural Resources and Conservation (DNRC), provided a brief history behind the transfer of state properties.

Rep. Christiaens asked Mr. Clinch for a detailed list of future land transfers. Mr. Clinch said that they would make the information available as soon as they know.

Sen. Christiaens asked for the value per acre of the 234 acres. **Scott Bell, Morrison Maierle Inc.**, said the property was appraised for approximately \$150,000.

Greg Petesch, Legal Director/Code Commissioner, Legislative Services Division, asked why the transfer was not a section 77-2-302, MCA, transfer, which deals with institutional land. **Scott Frickle, DNRC**, said that he did not see Corrections land as being institutional and proceeded under section 77-2-351, MCA. Mr. Frickle said that the transfer procedures are essentially the same. Mr. Robertson said that they used section 77-2-351, MCA, because it is ranch property and it is not specifically attached to any building. Mr. Petesch said that section 77-2-302, MCA, refers to land or buildings formerly used for institutional purposes and that the prison is an institution. He said that the transfer procedure is slightly different because under section 77-2-351, MCA, the property must be dedicated to a public use. Under section 77-2-302, MCA, the property must be used in the best interest of the state, and the Land Board must make that decision.

Sen. Cocchiarella asked Mr. Kelly about the airport expansion and how he plans to support an expanded airport. Mr. Kelly said that the expansion is to extend the runway for safety issues. He said that the additional upkeep will be minor and that the FAA has agreed to share the cost of maintenance on the airport. Sen. Cocchiarella asked what the purpose of the expansion was. Mr. Kelly said that they are looking to attract aircraft and the business that comes with them. Sen. Cocchiarella asked if there was any private property needed and how it was acquired. Mr. Kelly said that 8 acres were private and that they paid the appraised value plus an additional amount to reroute a ditch. He said that the acquisition of the private property occurred without litigation.

Rep. Noennig asked Mr. Bell about the increased value of the land due to the new pivot system. Mr. Bell said that they reviewed the acreage of irrigated land as well as grazing land and reviewed the return benefits of the center pivot and found them to be fairly equal. Rep. Noennig asked if the situation was a fair trade. Mr. Bell said yes. Rep. Noennig asked about the golf course project. Mr. Bell said that the golf course expansion came out of the process due to the fact that the expansion parcel is an uneconomic remnant.

Sen. Cole asked Mr. Dabney about the irrigation process. Mr. Dabney said that they will no

longer flood irrigate and that he will be turning some pasture land into hay land. Sen. Cole asked how big the pivots are. Mr. Dabney responded that they range between 1300-1600 feet. Sen. Cocchiarella asked Mr. Bell how many projects like this Morrison Maierle has been involved in. Mr. Bell said that they have done several airport projects. Sen. Cocchiarella asked if they have done other projects. Mr. Bell said yes.

Sen. Doherty asked Mr. Petesch about his interpretation of sections 77-2-302 and 351, MCA. Mr. Petesch said that the procedure is not significantly different. Sen. Doherty moved that the transfer be approved.

Sen. Cocchiarella commented that she has seen what has happened in Stevensville and Malta regarding their airports and that she is concerned about the promises of increased economic development while cities must incur increased maintenance costs.

Sen. Beck modified Sen. Doherty's motion to state that consultation as required by statute has occurred and that the Council concurs with the transfer of the property. Sen. Doherty agreed to Sen. Beck's modification.

The motion passed 7 to 1, with Sen. Cocchiarella voting no.

UPDATE ON LEGISLATIVE DISTRICTING AND APPORTIONMENT

Susan Fox, Research Analyst, Legislative Services Division, provided an update to the Council regarding the criteria and operational guidelines for legislative redistricting and provided some basic facts on districting and apportionment (EXHIBIT #2).

Sen. Beck asked why Senate districts aren't proposed with House districts. Ms. Fox said that pairing of House districts has not yet occurred in part due to holdover Senators and in part for historical reasons. She noted that there will likely be a hearing on pairing in November around the time of the caucuses. Sen. Beck asked about the authority of the legislature. Ms. Fox said that the legislature may make recommendations to the Commission regarding redistricting, but they have no authority to reject the plan. Sen. Beck asked if the apportionment plan may still be challenged in the court. Ms. Fox said yes.

Sen. Christiaens asked about multiple Senators in a district. Ms. Fox said that the Commission makes that decision but that the commissioners will wait until the election so they can see where the Senators live and who their constituents are.

Rep. Noennig asked if there were four plans for every area. Ms. Fox said yes.

Sen. Beck asked if the Commission is trying to hold particular counties together. Ms. Fox said yes, to the extent possible. Sen. Beck asked if the plans were made up for western Montana yet. Ms. Fox said no.

REVIEW AND APPROVAL OF DRAFT JOINT RULE REQUIRING EXTRAORDINARY VOTE FOR CERTAIN BILL PROVISIONS

Mr. Petesch presented to the Council a recommendation from the Subcommittee on Multiple

Versions of Code Sections (EXHIBIT #3). The proposed joint rule would require a two-thirds vote from each house for passage of a bill containing a termination provision, delayed effective date, or contingency. The rule also would require a two-thirds vote to add a termination provision, delayed effective date, or contingency to an introduced bill. Mr. Petesch provided some examples of how this rule would be applied.

Rep. Noennig noted that a termination provision, delayed effective date, or contingency could be removed from a bill with a simple majority vote; once removed, a simple majority would be needed for passage. Rep. Noennig moved that the Council recommend the proposed rule to the Joint Rules Committee. The motion passed unanimously.

UPDATE ON DRAFT LEGISLATION ON APPOINTMENT TO INTERSTATE AND INTERNATIONAL COMMITTEES

Todd Everts, Director, Legislative Environmental Policy Office, Legislative Services Division, provided an update to the Council regarding the appointment of legislators to interstate and international committees. He said that he has drafted a bill to clarify appointment authority and recommends that the Council's subcommittee review the draft prior to bringing it to the full Council.

Sen. Doherty asked for a copy of the bill draft. Mr. Everts said he would provide the information.

Sen. Beck asked for a description of the bill draft. Mr. Everts said that he repealed 5-11-301, MCA, created three new sections defining terms and clarifying the Council's role in interstate, international, and intergovernmental cooperation and appointments, and amended an existing statute on appointments to the Pacific NorthWest Economic Region.

INTERIM COMMITTEE REVIEW OF AGENCY BILL DRAFTS

Dave Bohyer, Research Director, Legislative Services Division, presented to the Council the *Procedure for Review, Request, and Drafting of Agency Legislation* (EXHIBIT #4). Mr. Bohyer also presented the *Required Review of Agency-Proposed Legislation* (EXHIBIT #5).

Mr. Bohyer reviewed the process to be used by an executive branch agency for requesting legislation to be drafted by the Legislative Services Division. Sen. Christiaens asked what happens if a committee does not move a bill forward. Mr. Bohyer said the agency can find a holdover or unopposed legislator before the general election or any legislator following the election to request the bill.

Rep. Noennig asked about the statutory assignment of certain agencies to interim committees. Mr. Bohyer said that the current statute must govern for this interim but that changes could be made in 2003.

Sen. Beck asked about the responsibilities of the Legislative Finance Committee. Mr. Bohyer said that the Legislative Finance Committee is not considered an interim committee. Sen. Beck said that the Office of Budget and Program Planning usually goes through the Legislative Finance Committee in presenting its legislative package. Mr. Bohyer said that this review process is for the purposes of requesting the bill for bill drafting purposes only.

In response to a question from Sen. Cole, Mr. Bohyer said that the default action of an interim committee could be to request that the agency bills be drafted. This would ensure that the bills will be drafted in a timely fashion.

Sen. Cole moved that the Council serve as the reviewing body for agencies not currently assigned to interim committees. The motion passed unanimously.

Rep. Noennig moved that staff draft legislation to designate the Legislative Council as the default committee for reviewing proposed legislation from agencies that are not assigned to interim committees. The motion passed unanimously.

BUDGET DEVELOPMENT: REVIEW OF BUDGET PROPOSALS

Lois Menzies, Executive Director, Legislative Services Division, presented to the Council *Potential FY2004-05 Budget Proposals* (EXHIBIT #6). She said that this is an initial proposal; no cost estimates have been developed at this time.

Sen. Christiaens asked if putting the 2003 session production costs for Television Montana (TVMT) into the feed bill will cause a spike in the feed bill appropriation. Ms. Menzies said that some costs related to retirement payments for legislators should drop out of the 2003 feed bill. If so, this may leave room for TVMT production costs without resulting in a substantial increase in the feed bill.

REVIEW OF LEGISLATIVE INTERN PROGRAM

Ms. Menzies reviewed the *Legislative Internship Program* (EXHIBIT #7). The Council speculated on reasons why participation in the program has been so low in recent sessions, including the change to the semester system and the lack of a stipend. Members agreed that the program was valuable for both students and legislators. The Council asked Ms. Menzies to work with Rep. Mood to facilitate discussions with the University System on stimulating interest in the program.

Sen. Cocchiarella said that she will submit a bill draft request that would allow for tuition waivers for interns.

STATUS REPORTS

Ms. Menzies provided a status report to the Council regarding New Legislator Orientation (EXHIBIT #8), Law School for Legislators (EXHIBIT #9), rules training for staff (EXHIBIT #10), and America's Legislator's Back to School Day sponsored by the National Conference of State Legislators (EXHIBIT #11).

Sen. Cole asked about rules training. Ms. Menzies said that it is geared toward bill drafters and committee staffers; however, any interested staff member may participate.

Sen. Doherty moved that Ms. Menzies draft a letter encouraging legislator participation in the America's Legislator's Back to School Day. The motion passed unanimously.

OTHER BUSINESS AND DIRECTIONS TO STAFF

Sen. Christiaens asked about the Homeland Security meeting. Ms. Menzies said that she would meet with Sheri Heffelfinger of the State Administration and Veterans' Affairs Interim Committee and provide a written report to the Council.

Sen. Christiaens also spoke about the letter from Sen. Roush (EXHIBIT #12) and participation in the Pacific Northwest Economic Region (PNWER) conference. After much discussion on funding legislator participation in interstate organizations, Sen. Doherty moved that two PNWER members be permitted to attend the PNWER conference with expenses of up to \$1,000 each being reimbursed by the Interim Committees and Activities Budget. The motion passed unanimously.

Sen. Cocchiarella briefed the Council on her trip to a conference on juvenile justice. She said that in the arena of reducing juvenile crime, early intervention programs seem to be the most effective. She would like to see future discussions on creating experts in certain topic areas rather than rely on lobbyists.

ADJOURNMENT

The meeting adjourned at 5:07 p.m. The next meeting is tentatively scheduled for June 14, 2002.

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